

113TH CONGRESS
2D SESSION

S. 2688

To ensure labor organization transparency and accountability.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2014

Mr. THUNE (for himself, Mr. ALEXANDER, Mr. CORNYN, and Mr. ISAKSON)
introduced the following bill; which was read twice and referred to the
Committee on Health, Education, Labor, and Pensions

A BILL

To ensure labor organization transparency and
accountability.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Union Transparency
5 and Accountability Act”.

6 **SEC. 2. DISCLOSURE REQUIREMENTS.**

7 Section 208 of the Labor-Management Reporting and
8 Disclosure Act of 1959 (29 U.S.C. 438) is amended—

9 (1) by striking “The Secretary” and inserting
10 “(a) The Secretary”; and

1 (2) by adding at the end the following:

2 “(b) Notwithstanding subsection (a) and for each fis-
3 cal year, a labor organization that would be required to
4 file form LM–2 under part 403 of title 29, Code of Fed-
5 eral Regulations, under section 201(a) (as such part was
6 in effect on October 12, 2009) shall be required to annu-
7 ally file with the Secretary—

8 “(1) form LM–2, as published in the appendix
9 to the final rule issued by the Secretary of Labor en-
10 titled ‘Labor Organization Annual Financial Re-
11 ports’ (74 Fed. Reg. 3678 (January 21, 2009)); or

12 “(2) a successor form that includes all of the
13 information required in such form LM–2 (as such
14 form was published on January 21, 2009).

15 “(c) Notwithstanding subsection (a) and for each fis-
16 cal year, a labor organization that would be required to
17 file form T–1 under part 403 of title 29, Code of Federal
18 Regulations (as such part was in effect on November 30,
19 2010) shall file with the Secretary, as the report con-
20 cerning trusts in which a labor organization is inter-
21 ested—

22 “(1) form T–1, as published in the appendix to
23 the final rule issued by the Secretary entitled ‘Labor
24 Organization Annual Financial Reports for Trusts

1 in Which a Labor Organization Is Interested, Form
2 T-1' (73 Fed. Reg. 57412 (October 2, 2008)); or

3 “(2) a successor form that includes all of the
4 information required in such form T-1 (as such
5 form was published on October 2, 2008).

6 “(d) Notwithstanding subsection (a) and for each fis-
7 cal year, an officer or employee of a labor organization
8 who would be required to file form LM-30 under part 404
9 of title 29, Code of Federal Regulations (as such part was
10 in effect on October 25, 2011) shall be required to file
11 with the Secretary—

12 “(1) form LM-30, as published in the appendix
13 to the final rule issued by the Secretary entitled
14 ‘Labor Organization Officer and Employee Report,
15 Form LM-30’ (72 Fed. Reg. 36106 (July 2, 2007));
16 or

17 “(2) a successor form that includes all of the
18 information required in such form LM-30 (as such
19 form was published on July 2, 2007).”.

20 **SEC. 3. CIVIL FINES RELATING TO DISCLOSURE VIOLA-**
21 **TIONS.**

22 (a) CIVIL FINES FOR FAILURE TO PROVIDE INFOR-
23 MATION TO MEMBERS.—Section 201 of the Labor-Man-
24 agement Reporting and Disclosure Act of 1959 (29 U.S.C.
25 431) is amended—

1 (1) by redesignating subsection (c) as sub-
2 section (c)(1); and

3 (2) by inserting after such subsection (c)(1) the
4 following:

5 “(2) Any labor organization that fails to meet the re-
6 quirements of paragraph (1) with respect to a member,
7 by refusing to make available the information required to
8 be contained in a report required to be submitted under
9 this title, and any books, records, and accounts necessary
10 to verify such report (unless such failure or refusal results
11 from matters reasonably beyond the control of the labor
12 organization), may in the court’s discretion, and in addi-
13 tion to any other relief provided by law and determined
14 proper by the court, be liable to such member for an
15 amount that is not more than \$250 a day from the date
16 of such failure or refusal (except that such amount shall
17 be adjusted for inflation in the same manner as the Sec-
18 retary adjusts the amount of a civil fine under section
19 211(c)). For purposes of this paragraph, each violation
20 with respect to any single member shall be treated as a
21 separate violation.”.

22 (b) CIVIL ENFORCEMENT FOR FAILURE TO FILE A
23 TIMELY REPORT.—Section 210 of the Labor-Management
24 Reporting and Disclosure Act of 1959 (29 U.S.C. 440)
25 is amended to read as follows:

1 **“SEC. 210. CIVIL ENFORCEMENT.**

2 “(a) IN GENERAL.—Whenever it shall appear that
3 any person has violated or is about to violate any of the
4 provisions of this title, or section 301(a), the Secretary
5 may bring a civil action for such relief, including an in-
6 junction or the enforcement of a civil fine imposed under
7 section 211, as may be appropriate. Any such action may
8 be brought in the district court of the United States where
9 the violation occurred or in the United States District
10 Court for the District of Columbia.

11 “(b) JUDICIAL REVIEW FOR ENFORCEMENT OF
12 CIVIL FINES.—

13 “(1) STANDARD OF REVIEW.—Upon a com-
14 plaint filed by the Secretary seeking the enforcement
15 of a civil fine, the appropriate district court shall im-
16 pose the civil fine that has been determined to be
17 appropriate by the Secretary—

18 “(A) if the person, labor organization, or
19 employer against whom the civil fine is sought
20 has been provided written notice and an oppor-
21 tunity to be heard before the Secretary or a
22 designee of such Secretary, in accordance with
23 procedures established by the Secretary under
24 section 211(g)(1); and

25 “(B) unless the Secretary’s determination
26 is shown to be arbitrary and capricious.

1 “(2) SCOPE OF REVIEW.—The appropriate
2 court shall not consider any objection or argument
3 that was not raised in the proceedings before the
4 Secretary.

5 “(c) APPROPRIATENESS OF INJUNCTIVE RELIEF.—
6 Upon a complaint filed by the Secretary seeking relief
7 under this section demonstrating that a person, labor or-
8 ganization, or employer has failed to file timely and com-
9 plete reports required by this title or section 301(a), or
10 has filed reports that are substantially incomplete or inac-
11 curate, or that information required to be reported may
12 be lost or destroyed absent such relief, the district court
13 shall issue an order enjoining continued violation of this
14 title or section 301(a). Injunctive relief may be awarded
15 in addition to any other additional civil or criminal remedy
16 and whether or not the Secretary seeks enforcement of a
17 civil fine.”.

18 (c) AUTHORITY TO IMPOSE CIVIL FINES.—Title II
19 of the Labor-Management Reporting and Disclosure Act
20 of 1959 (29 U.S.C. 431 et seq.) is amended—

21 (1) by redesignating section 211 as section 212;

22 and

23 (2) by inserting after section 210 the following:

1 **“SEC. 211. CIVIL FINES.**

2 “(a) NOTICE; CORRECTION PERIOD.—Upon finding
3 a violation of subsection (a) or (b) of section 201 or sec-
4 tion 202, 203, 207, 212, or 301(a), the Secretary shall,
5 in accordance with standards and procedures established
6 by the Secretary under subsection (g), provide the person,
7 labor organization, or employer responsible for such viola-
8 tion—

9 “(1) written notice of the violation; and

10 “(2) a period of time to correct the violation
11 that is not more than 30 days after the date that
12 the Secretary provides such written notice.

13 “(b) FINES ASSESSED.—Subject to the other provi-
14 sions of this section, if the Secretary determines that a
15 person, labor organization, or employer has violated sub-
16 section (a) or (b) of section 201 or section 202, 203, 207,
17 212, or 301(a) and has not corrected the violation within
18 the period described in subsection (a)(2), the Secretary
19 may assess a civil fine against the person, labor organiza-
20 tion, or employer responsible for such violation.

21 “(c) AMOUNT OF CIVIL FINE.—

22 “(1) MAXIMUM AMOUNT.—A civil fine under
23 this section shall be for an amount that is not more
24 than \$250 a day from the date of the violation, and
25 not more than \$45,000 in the aggregate, except that
26 such amounts shall be adjusted in accordance with

1 the inflation adjustment procedures prescribed in the
2 Federal Civil Penalties Inflation Adjustment Act of
3 1990 (28 U.S.C. 2461 note; Public Law 101–410).

4 “(2) FACTORS IN DETERMINING AMOUNT.—In
5 determining the amount of a civil fine under this
6 section, the Secretary may consider—

7 “(A) the gravity of the offense;

8 “(B) any history of prior offenses (includ-
9 ing offenses occurring before the date of enact-
10 ment of this section) of the person, labor orga-
11 nization, or employer responsible for such viola-
12 tion;

13 “(C) the ability of such person, labor orga-
14 nization, or employer to pay the civil fine with-
15 out material impairment of the ability to carry
16 out representational functions or honor other fi-
17 nancial obligations;

18 “(D) any injury to uninvolved members of
19 the labor organization or to the public;

20 “(E) any benefits to such person, labor or-
21 ganization, or employer resulting from such vio-
22 lation;

23 “(F) the ability of the civil fine to deter fu-
24 ture such violations; and

1 “(G) any other factors that the Secretary
2 may determine to be appropriate to further the
3 purposes of this Act.

4 “(d) LIMITATION.—A person, labor organization, or
5 employer shall not be required to pay a civil fine under
6 this section for a violation of subsection (a) or (b) of sec-
7 tion 201 or section 202, 203, 207, 212, or 301(a) for
8 which a material cause was reasonably beyond the control
9 of such person, labor organization, or employer.

10 “(e) INCOMPLETE REPORTS.—A report rejected by
11 the Secretary as incomplete shall be considered not filed
12 for purposes of determining the existence of a violation
13 of subsection (a) or (b) of section 201 or section 202, 203,
14 207, 212, or 301(a), and a civil fine may be assessed for
15 such violation.

16 “(f) EFFECT ON CRIMINAL SANCTIONS.—The impo-
17 sition of a civil fine under this section shall not affect the
18 availability of criminal sanctions against any person, labor
19 organization, or employer who knowingly or willfully vio-
20 lates a provision of this Act.

21 “(g) STANDARDS AND PROCEDURES.—

22 “(1) IN GENERAL.—The Secretary shall estab-
23 lish, pursuant to sections 208 and 606, standards
24 and procedures governing the imposition of a civil
25 fine under this section that include providing the

1 person, labor organization, or employer responsible
2 for an alleged violation of subsection (a) or (b) of
3 section 201 or section 202, 203, 207, 212, or 301(a)
4 with—

5 “(A) written notice of such violation; and

6 “(B) an opportunity for a hearing before
7 the Secretary or a designee of such Secretary.

8 “(2) JUDICIAL REVIEW.—

9 “(A) IN GENERAL.—After exhausting all
10 administrative remedies established by the Sec-
11 retary under paragraph (1), a person, labor or-
12 ganization, or employer against whom the Sec-
13 retary has imposed a civil fine under this sec-
14 tion may obtain a review of such fine in the
15 United States District Court where the viola-
16 tion occurred or in the United States District
17 Court for the District of Columbia, by filing in
18 such court, within 30 days of the entry of a
19 final order imposing the civil fine, a written pe-
20 tition that the Secretary’s order or determina-
21 tion be modified or be set aside in whole or in
22 part.

23 “(B) STANDARD OF REVIEW.—Upon peti-
24 tion for review of a civil fine under this section,
25 the appropriate district court shall impose the

1 civil fine determined to be appropriate by the
2 Secretary—

3 “(i) if the person, labor organization,
4 or employer against whom the civil fine is
5 sought has been provided written notice
6 and an opportunity to be heard, in accord-
7 ance with the procedures established by the
8 Secretary under paragraph (1); and

9 “(ii) unless the Secretary’s determina-
10 tion is shown to be arbitrary and capri-
11 cious.

12 “(C) SCOPE OF REVIEW.—In reviewing a
13 civil fine under this section, the appropriate dis-
14 trict court shall not consider any objection or
15 argument that was not raised in the pro-
16 ceedings before the Secretary.

17 “(h) SETTLEMENT BY SECRETARY.—The Secretary
18 may compromise, modify, or remit any civil fine that may
19 be, or has been, imposed under this section.”.

20 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
21 The Labor-Management Reporting and Disclosure Act of
22 1959 (29 U.S.C. 401 et seq.) is further amended—

23 (1) in section 205 (29 U.S.C. 435), by striking
24 “211” each place it appears and inserting “212”;

1 (2) in section 207(b) (29 U.S.C. 437(b)), by
2 striking “211” each place it appears and inserting
3 “212”; and

4 (3) in section 301(b) (29 U.S.C. 461(b)), by
5 striking “and 210” and inserting “210, and 211”.

6 **SEC. 4. WHISTLEBLOWER PROTECTIONS FOR LABOR ORGA-**
7 **NIZATION EMPLOYEES.**

8 Title II of the Labor-Management Reporting and
9 Disclosure Act of 1959 (29 U.S.C. 431 et seq.) is amended
10 by inserting after section 211 the following:

11 **“SEC. 211A. WHISTLEBLOWER PROTECTION FOR LABOR OR-**
12 **GANIZATION EMPLOYEES.**

13 “(a) WHISTLEBLOWER PROTECTION.—It shall be un-
14 lawful for any labor organization to discharge or in any
15 other manner discriminate against any employee because
16 such employee has filed any complaint or instituted or
17 caused to be instituted any proceeding under or related
18 to this Act, or has testified or is about to testify in any
19 such proceeding.

20 “(b) ENFORCEMENT AND REMEDIES.—Any person
21 whose rights secured by the provisions of this title have
22 been infringed by any violation of this title may bring a
23 civil action in the appropriate district court of the United
24 States for such relief as may be appropriate, including an
25 injunction. A civil action under this subsection against a

1 labor organization shall be brought in the district court
2 of the United States for the district where the alleged vio-
3 lation occurred or where the principal office of such labor
4 organization is located.”.

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